IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

MISC. APPLICATION No. 51 of 2002

M/S SWAPANLOK CINEMA UDAIPUR
V/S
ASSISTANT REGIONAL DIRECTOR & ORS

Mr. KL JASMATIYA, for the appellant / petitioner

Mr. GANGA RAM BHARI, for the respondent

Date of Order : 8.2.2005

HON'BLE SHRI N P GUPTA,J.

ORDER

This application has been filed under Section 151 CPC for recalling the order dated 8.8.2002, and with a request to hear the appeal on merits. The appeal was dismissed on 8.8.2002 on the ground that the matter is covered by the decision of Hon'ble the Suprme Court in Royal Talkies Vs. E.S.I. Corporation reported in 1978 (4) SCC 204.

It is contended in the application that the matter was listed for admission, and the counsel had to attend the matter in another case, and by the time he returned, the order had been passed, and that the point involved in the matter is not covered by the judgment in aforesaid Royal Talkies's case, as the controversy in the present appeal is, as to whether the certificate was issued by the competent authority or not, which was not decided in Royal Talkies's case.

I have perused the file of the first appeal, and notwithstanding the fact, that no sufficient cause has been made out for the absence of the learned counsel on 8.8.2002 when the case was called, extending benevolence, I have heard learned counsel again on the first appeal as well. From the bear reading of the impugned judgment of the learned trial Court, it is clear that the stand taken by the appellant in the application about the case being not covered by the Royal Talkies's case is not correct, and learned counsel has not been able to substantiate, as to how it is not covered by the Royal Talkies's case.

Thus taken from any stand point, the application is devoid of merit. The same is, therefore, dismissed.

(N P GUPTA),J.

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